

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 117 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

and

Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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STATE OF GUJ

Versus

JERAJBHAI R PATEL

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Appearance:

Mr.S.R. Divetia, APP, for Appellant

MR YOGESH S LAKHANI for Respondent No. 1

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CORAM : MR.JUSTICE J.M.PANCHAL and

MR.JUSTICE M.H.KADRI

Date of decision: 12/04/99

ORAL JUDGEMENT

1. The acquittal of the respondent of the offences punishable under Sections 451, 323, 161 of the Indian Penal Code and Section 5(2) of the Prevention of Corruption Act, recorded by the learned Special Judge, Jamnagar, vide judgment and order dated October 27, 1994 in Special Case No.4 of 1986, is under challenge in this

appeal which is filed under Section 378 of the Code of Criminal Procedure, 1973.

2. At the time of hearing of the appeal, Mr. S.R. Divetia, learned Additional Public Prosecutor, has produced fax message dated 8/9th April 1999 received from the Police Inspector, ACB, Jamnagar, wherein it is stated that the sole respondent has expired on December 21, 1998. Along with the fax message, xerox copy of the death certificate issued by the competent authority is also sent which indicates that respondent, Jerajbhai Raghubhai Kasundra (Patel), has expired on December 21, 1998 at village Aamran. The fax message along with the death certificate is ordered to be taken on record of the case. In view of the contents of the fax message and the death certificate, there is no manner of doubt that the sole respondent in appeal has expired and, therefore, the appeal deserves to be disposed of in terms of Section 394 of the Code of Criminal Procedure, 1973.

3. For the foregoing reasons, it is held that the appeal filed by the State Government has finally abated on the death of the respondent and is disposed of as having finally abated. Muddamal to be disposed of in terms of the impugned judgment.

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(swamy)